

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

HOBART R. ASHER,)	
)	
Plaintiff)	
)	
v.)	No. 3:06-cv-068
)	
MICHAEL J. ASTRUE, ¹)	
Commissioner of)	
Social Security,)	
)	
Defendant)	

MEMORANDUM AND ORDER

This matter was referred to the Honorable C. Clifford Shirley, Jr., United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Rule 72(b), Federal Rules of Civil Procedure, for a Report and Recommendation (R&R) regarding disposition of plaintiff's motion for summary judgment [Doc. 15] and defendant's motion for summary judgment [Doc. 17]. In an R&R dated March 14, 2007, Judge Shirley recommended that plaintiff's motion be denied and that defendant's motion be granted [see Doc. 19]. Plaintiff has failed to file a timely objection to the R&R.

¹On February 12, 2007, Michael J. Astrue became the Commissioner of Social Security. In accordance with Rule 25(d)(1) of the Federal Rules of Civil Procedure and Title 42 of the United States Code, Section 405(g), Michael J. Astrue is automatically substituted as the defendant in this civil action.

See 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Plaintiff is thus deemed to have waived any objection thereto. *Thomas v. Arn*, 474 U.S. 140 (1985).

After a careful review of this case and, in particular, the R&R, the court is in complete agreement with Judge Shirley's ultimate conclusion that there is substantial evidence in the record as a whole to support the ALJ's conclusion that plaintiff is no longer disabled.

Accordingly, the R&R is hereby ACCEPTED IN WHOLE whereby: (1) plaintiff's motion for summary judgment [Doc. 15] is DENIED; (2) defendant's motion for summary judgment [Doc. 17] is GRANTED; and (3) the Clerk is DIRECTED to prepare an appropriate judgment.

E N T E R :

s/ James H. Jarvis
UNITED STATES DISTRICT JUDGE